

5 October 2015

Essential Services Commission

By email to energyhardshippreview@esc.vic.gov.au

Response to *Supporting customers avoiding labels* the ESC Energy Hardship Inquiry Draft Report

The Brotherhood of St Laurence welcomes the ESC's efforts to identify and address the limitations of current regulatory and retailer responses to energy hardship. Keeping customers connected to essential energy services is vital for a decent standard of living. The ultimate goal of assisting customers experiencing payment difficulties should be that none are disconnected from energy supply and that customers regain financial autonomy and move out of hardship.

We draw attention to the attached, jointly developed *'Revised' new approach to assisting consumers experiencing payment difficulties - a consumer view*, which the Brotherhood of St Laurence endorses.

Some points of specific importance to the BSL:

1. There is insufficient assistance for customers who cannot afford their energy consumption

We are concerned that the proposed options will be insufficient for people whose energy needs are unaffordable.

2. Support needs to be provided early

As detailed in the consumer view (attached), Active Assistance should be brought forward for those customers unlikely to be able to meet payment plans. These customers could be identified by asking them whether a payment plan would actually work to achieve the best outcome for them and offering other supports such as financial counseling or home energy visits that may be more appropriate. Appropriate funding of home energy visits, financial literacy support and financial counseling will be key to the success of hardship responses.

3. Consumers need protection from disconnection

We also seek urgent clarification from the ESC on the steps to ensure that customers who are unable to meet payment obligations, despite their best efforts, are protected from disconnection, as they currently are while participating in the current hardship programs.

4. Reconnection plans will not assist customers to remain connected

We are concerned the options provided in the Reconnection plan (which we understand will now be the Connection plan) will not assist customers to remain connected to a safe energy supply. If customers are

unable to afford payment of their energy bills post hoc, it is difficult to see how pre-payment would make their bills any more affordable.

Supply capacity control will require a very detailed high quality audit and householder engagement to establish a viable lifeline supply and a review process to ensure no harm is done. Given the numerous predictable risks such as food spoilage and fires caused by automatic restarts of appliances as well as other possible unintended consequences, it is difficult to see how supply capacity control could be introduced safely.

Assistance to address high consumption and other factors causing payment difficulties should be the priority. Debt relief and debt matching, along with financial literacy supports may also be valuable incentives for customers working to address payment arrears.

5. Energy efficiency is important and must be supported

We welcome the ESC's proposal to require retailers to provide energy efficiency advice. Much energy efficiency advice can be provided online or over the phone and we support provision of advice to as many customers as possible in the lowest cost way. We recommend that where consumption has not been reduced to an affordable level using phone or online options, in-home energy audits be offered.

6. Appliance upgrades should be supported

Heating and cooling accounts for 40% of household energy use (DIIS 2015) but the level of a home's insulation is often poor and unknown, particularly by renters (ABS 2009). We recommend insulation be included in the proposed appliance replacements. Consideration should also be given to the trials being undertaken of rooftop solar (solar photo-voltaic) as a means to assist certain households who are unable to pay their bills.

We note and endorse the ESC's proposal that Active Assistance include energy efficiency support. We are aware that unless the state government puts in place new energy efficiency support programs there won't be any effective support for higher cost items such as hot water, heating and cooling, which can make large improvements in energy efficiency. The ESC should specifically recommend support for energy efficiency for clients having trouble paying their energy bills.

7. Households' rationing of their energy usage also needs to be addressed

We also encourage the ESC to work with other parts of government to address the problem of 'rationing', where people are reducing their energy consumption to a level that is deleterious to their health and wellbeing, in order to afford their energy bills.

8. Retailers should be encouraged and rewarded for best practice

We recognize that a number of energy retailers are putting in place innovative approaches to assist consumers experiencing difficulty paying their bills. The framework proposed by the ESC may not provide sufficient encouragement or reward for retailers that are investing in best practice. The ESC should engage with retailers to devise adequate incentives.

9. Outcome measures are important

The introduction of outcome measures will greatly improve performance reporting. In addition to the proposed level of payment difficulty, level of debt owed, level of disconnection and reconnection measures, we recommend measures be developed to assess energy bill reduction relative to consumption and energy consumption reduction following energy efficiency advice or appliance upgrades. We would be pleased to work with the ESC to develop robust measures.

10. Communications strategies need to be appropriate in diverse contexts

The new framework will provide a good opportunity for government and retailers to undertake community awareness raising and engagement about the support available to energy customers facing payment difficulties. Retailers should be required to communicate **their** supports to all customers before they

experience hardship. We encourage the ESC and energy retailers to work with community organisations in the development of their communication strategies and materials. This can ensure that the methods are appropriate for people's varying energy use and energy literacy, the cultural and linguistic diversity of Victorian energy consumers and that the information is accessible in a variety of user-friendly formats.

11. Trialing and evaluation is needed for continuous improvement

Supporting customers avoiding labels does not outline a process for trialing and evaluation. We encourage the ESC to develop a monitoring and review process for ongoing improvement of the framework.

The ESC should also further assess the costs of implementing financial hardship programs, including the appropriate level of cost sharing between energy retailers and government and should monitor retailers' expenditure on customers in different stages of hardship.

We also recommend the ESC fund trials of financial hardship responses to assess their efficacy and potential for wider uptake.

12. Non stigmatising payment options are welcome

We are pleased to see the introduction of non-stigmatising payment options for customers experiencing or predicting payment difficulties. These will be valuable for those customers experiencing short-term financial problems.

I look forward to an opportunity to meet with you to discuss these points further.

Yours sincerely,

Tony Nicholson
Executive Director

REFERENCES:

Australian Bureau of Statistics (ABS) 2009, *Household water, energy use and conservation Victoria, October 2009*
Department of Industry Innovation and Science (DIIS) 2015, *Understanding heating and cooling*, DIIS, Canberra, viewed 23 September 2015, <<http://yourenergysavings.gov.au/energy/heating-cooling/understand-heating-cooling>>

A 'REVISED' NEW APPROACH TO ASSISTING CONSUMERS EXPERIENCING PAYMENT DIFFICULTIES A CONSUMER VIEW

Principle:

Consumers can expect to be treated with respect, in light of the obligation that, where possible, they will meet the costs of their energy usage.

Overview:

The framework we have presented below provides opportunities for consumers to remain *empowered, engaged* and *connected* throughout the payment cycle and for energy retailers to continue to innovate and proactively develop enhanced processes to assist consumers in financial difficulty.

While retaining much of the intent of the Commission's framework, we have proposed changes to the order and importance of aspects of consumer engagement and retailer response to achieve optimal consumer outcomes, via flexible treatment of customers dependent on their needs, and retailer autonomy to drive best practice.

We consider that the most significant point of impact to divert consumers from a likely outcome of debt and disconnection, is to focus the retailers to engage and assist their customers at the earliest possible opportunity. When a consumer has not been able to meet their payment obligations in the first instance, then assistance around consumption, education and structured financial support, need to be provided – rather than when that consumer is facing disconnection, or has been disconnected. For the biggest cohort of consumers, those experiencing temporary and short term financial difficulty, this should be relatively straight forward and can likely be assisted through early and voluntary action. For many consumers, the issue of low income and high consumption as a result of circumstances such as poor quality housing, mental illness or lack of understanding regarding their energy use, will mean that they simply won't be able to meet the cost of consumption, and their circumstances are unlikely to change.

On this basis, we have suggested that Active Assistance be the first point of contact following the voluntary engagement mechanisms under Early Action Option. We consider that comprehensive and effective assistance for the majority of consumers experiencing longer term or more permanent financial difficulty, or issues of functional illiteracy should happen here. We also consider that those consumers who present with extreme vulnerability such as victims of natural disasters, family violence, as asylum seekers, or with major health issues, need intensive assistance tailored on an individualised basis, at the earliest point in time.

We consider that Payment Plan One and Two are important mechanisms for when the options provided under Active Assistance fail, this could be due to poor retailer processes or difficult customers. These prescribed payment plans (without assessment of capacity to pay) can provide for easier debt repayment, but won't assist all consumers whose hardship is more entrenched. We maintain that retailers should consider a consumer's capacity to pay at the Active Assistance stage. The benefit of Payment Plan One and Two is extra structured assistance where the Active Assistance stage fails. However, for many with chronic hardship or a total incapacity to pay, these payment

plans will not be successful. As such, even at these stages, where a consumer re-engages or asks for extra assistance, they should be directed back to 'Active Assistance'.

Recognising that many of those that haven't engaged through the above processes will be extremely vulnerable (i.e. mental health, family violence etc), we recommend an improved disconnection process, designed to produce engagement before the drastic step of disconnection. Key to this is a face-to-face contact between a consumer and retailer/distribution business before disconnection. Alternatively, Consumer Action Law Centre recommended in their report Heat or Eat that the decision to disconnect someone be taken out of the hands of retailers, and made instead, by an independent arbiter who can provide the necessary oversight for such a significant action.

While we agree with the intent of the Commission's proposed Reconnection process, to encourage small/pre payments and to assist consumers with consumption, we disagree with the method proposed, specifically supply capacity control and prepayment, and the timing of such interventions. Our proposal for tailored and intensive assistance for customers with the most severe hardship removes the focus on an automated disconnection process that results from supply capacity control or pre-payment, as we believe that the issue of consumption should be addressed earlier in the process, and that a strong and effective regulatory framework removes the need for these punitive and dangerous practices.

The inclusion of *C: Intensive Assistance*, provides an opportunity for those consumers in extremely vulnerable situations to receive the tailored support they need, recognising that connection to energy is an essential factor in those consumers overcoming or managing those vulnerabilities.

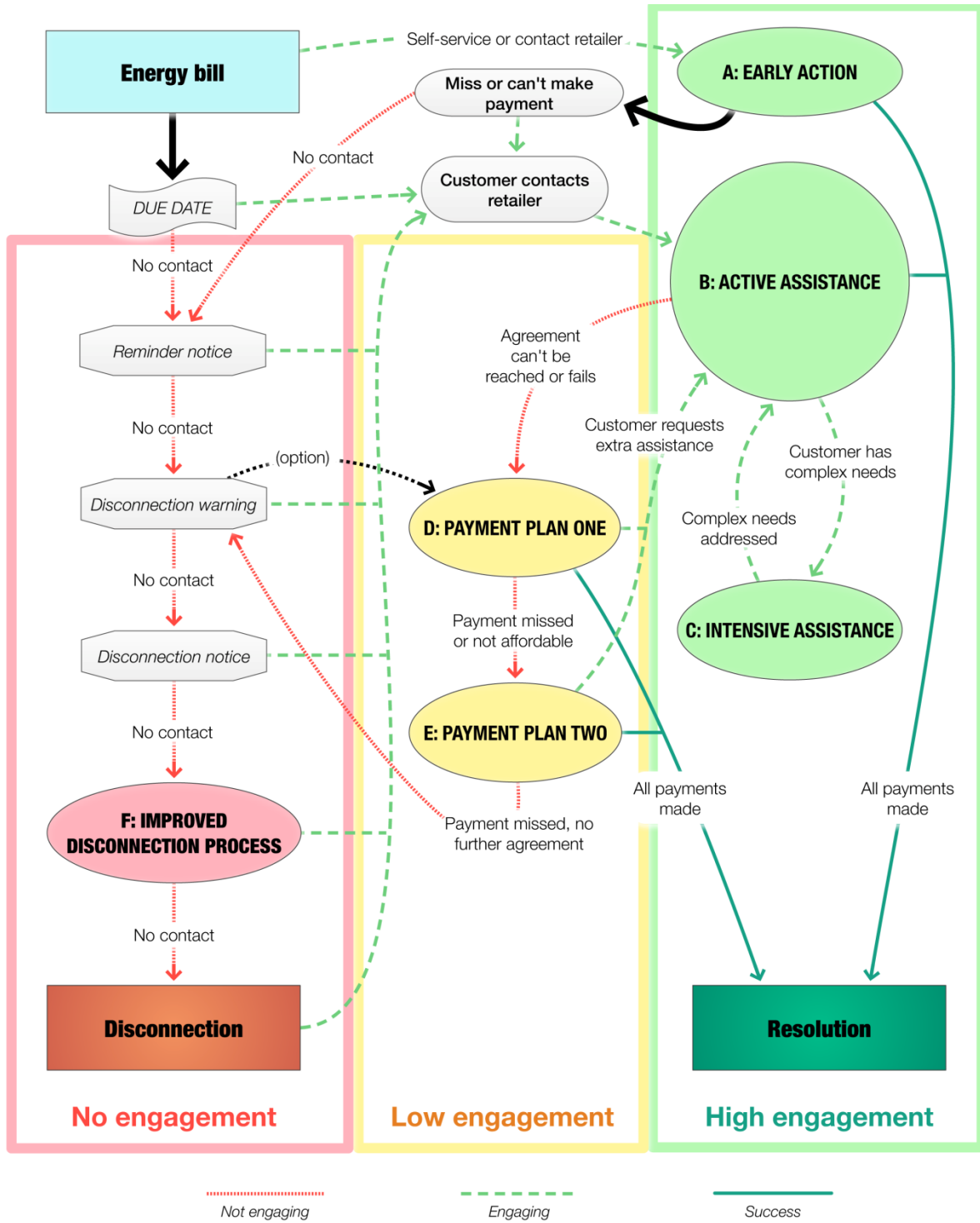
We do not consider the framework we developed to represent a linear flow, and that any consumer identified as facing extenuating circumstances, at any time, must have the opportunity to access increased assistance.

The intent of the revised process is further summarised by the objectives in the table below.

A: Early Action Option	To provide all customers, on receipt of their bill, the opportunity to contact their retailer (via phone or website) to set up, without prejudice, a payment plan that suits the individual; and to provide an avenue for early intervention with more tailored support.
B: Active assistance	To develop a relationship between the retailer and customer, with the goals of helping the customer to pay off debt, of ensuring ongoing consumption is affordable; and to provide an opportunity for retailers to innovate in supporting customers in hardship.
C: Intensive Assistance	To maintain connection for the most vulnerable Victorians and work toward sustainable energy usage.
D: Payment Plan One	To help customers with whom agreement could not be reached to maintain engagement with retailers and begin paying off their debt.
E: Payment Plan Two	To help customers with whom agreement could not be reached to maintain engagement with retailers and continue paying off their debt.
F: Improved Disconnection Process	To ensure disconnection is truly a last resort, and that the disconnection process offers a further opportunity for engagement.

The revised framework is illustrated in the following diagram, and more fully described below. Included in the description are consumer benefits that will be realised by the retailer obligations we have identified, as well as potential indicators to ensure visibility of consumers in the framework and mechanisms for compliance.

Framework diagram



Detail of framework components

A: Early Action Option

Objective: To provide all customers, on receipt of their bill, the opportunity to contact their retailer (via phone or website) to set up, without prejudice, a payment plan that suits the individual; and to provide an avenue for early intervention with more tailored support.

Retailer obligation	Consumer benefit of obligation	Compliance measure/KPI
To provide an option of automatic access to early and self-initiated payment plans: allow self-service payment extension (up to two weeks) or payment rescheduled over a period of up to two billing cycles. Any offer of deferred payment needs to be accompanied by a conversation / warning about financial implications.	Retailers must explain the implications of deferred payment, to ensure that those consumers, on fixed or low incomes, understand that deferred payment is unlikely to benefit them.	No. of customers who miss payment No. of customers who contact retailer No. of customers who initiate payment plan No. of consumers who present with financial or other concerns. No. of deferred payment arrangements entered into. Success of deferred payment arrangements (No. of consumers who re-enter billing cycle)
Part payments at the next available opportunity, eg pay cycle could be introduced as alternative arrangement to deferred payments, to ensure ongoing engagement with the consumer, and that payment patterns are maintained	Ongoing payment means that consumers remain engaged with retailers, rather than losing visibility with the retailer and incentive to remain engaged.	No. of consumers on part payment arrangements.
The retailer must (regardless of type of interaction with customer) ask the customer if the payment plan arrangement will be affordable and achievable and offer the option of more active assistance (B: <i>Active Assistance Plan</i> with the option of C: <i>Intensive Assistance</i> if appropriate).	Payment plans will not assist those consumers with more complex issues or a mismatch between income and cost of usage. Immediate referral to more targeted assistance ensures issues of affordability or consumption can be assessed and addressed <i>prior</i> to debt being incurred.	No. of consumers provided access to B: <i>Active Assistance</i> or C: <i>Intensive Assistance</i>
Options to be communicated via direct discussions between a customer and their retailer, or through an interactive interface on the website	Clear provision of consumer options means increases the likelihood of consumer engagement at the earliest opportunity.	No. of consumers who access interactive interface on website.

Where possible questions¹ should be asked by the retailer that would indicate if more tailored assistance is necessary. An indication of complex issues², requires strong consideration of immediate referral to B: *Active Assistance Program* or to C: *Intensive Assistance*; if no referral is made the rationale must be documented.

B: Active assistance

Objective: To be the primary response to payment difficulty and the hub of support and assistance. To develop a relationship between the retailer and customer, with the goal of ensuring ongoing consumption is affordable; and to provide an opportunity for retailers to innovate in supporting customers in hardship. Customers cannot be disconnected while in Active Assistance.

Retailer obligation	Consumer benefit of obligation	Compliance measure/KPI
That the retailer is obliged to negotiate with the customer for a suitable payment arrangement that meets their needs, whether temporary, fluctuating or persistent, long term or severe. This could include: <ul style="list-style-type: none"> • a bespoke payment plan • a short instalment plan; or, • more intensive assistance. 	Optimises the opportunity for consumer engagement where the consumer remains empowered and the retailer is able to use its discretion to achieve ongoing affordable consumption for that customer.	Type of assistance provided to consumers following first missed payment.
Retailers must consider the customer's reported capacity to pay when negotiating payment plans, noting that if the cost of usage is more than 4% ³ of income, the customer is very vulnerable to hardship.	The codified payment plans (<i>D: Payment Plan One</i> and <i>E: Payment Plan Two</i>) are a useful guide but it needs to be tailored based on the amount of debt and the customer's disposable income.	What percentage of income does the combined fortnightly amount for usage plus debt repayment represent? If more than 10% what additional assistance was provided?

¹ Example questions: Are you in receipt of Centrelink? Do you live in public housing? Do you rent? Are there pressing health or financial issues? Has your living situation changed? Is someone assisting you?

² Such as:

- a drop in income due to an illness or injury
- unemployment
- relationship breakdown or bereavement
- financial literacy challenges
- cultural or linguistic difficulties
- living on government pension or welfare
- natural disaster
- mental illness
- family violence
- a history of late or missed payments

³ This threshold was identified in Deloitte Australia, *Advanced metering infrastructure customer impacts study: Final report – Volume 2 (Appendices)*, Department of Primary Industries, Melbourne, 2011.

Retailers should consider whether offering a fully variable tariff, based on the best available, offer will assist.	Early opportunities to place consumers on more optimal tariffs given their circumstances will contribute to a reduced likelihood of debt.	How many customers were offered a fully variable tariff, based on the best available offer?
Retailers must give pay on time discounts for payment instalments made on time.	Pay on time discounts incentivise consumers and provide retailers a further opportunity to engage consumers.	How many customers paying by instalment received pay on time discounts?
Customers cannot transfer while they have debt	Consumers are more likely to benefit from the relationship they have developed with their retailer when they have accumulated a debt, provided that the retailer is providing all possible opportunities to reduce that debt.	How many customers have attempted to switch retailers while having a debt with the retailer?
Where possible, questions ⁴ should be asked by the retailer that would indicate if more tailored assistance is necessary. An indication of complex issues ⁵ , requires strong consideration of immediate referral to <i>C: Intensive Assistance</i> .**If no referral is made the rationale must be documented.	Retailers can gain a more realistic understanding of why a customer may be presenting with payment difficulties, and allocate them to the most appropriate support available.	How many customers present with factors that may impact on their ability to pay their bill.

⁴ Example questions: Are you in receipt of Centrelink? Do you live in public housing? Do you rent? Are there are pressing financial issues? Is someone assisting them?

⁵

- a drop in income due to an illness or injury
- unemployment
- relationship breakdown or bereavement
- financial literacy challenges
- cultural or linguistic difficulties
- living on government pension or welfare
- natural disaster
- mental illness
- family violence
- a history of late or missed payments

<p>Retailers to be mindful of the factors contributing to inability to pay, including consumption, and initiate any support measures to assist consumers with this where possible.</p>	<p>Retailers can gain a more realistic understanding of why a customer may be presenting with payment difficulties, and allocate them to the most appropriate support available.</p>	<p>How many customers present with factors that may impact on their ability to pay their bill</p>
<p>General information and assistance should be provided including:</p> <ul style="list-style-type: none"> • Referrals to support agencies such as financial counsellors, support services for other issues if identified (e.g. family violence, counselling, etc.) • Advice and assistance with managing energy usage, including the availability of energy audits and energy literacy training (by phone and in-house) • Access to smart meter data on energy consumption, and options for real-time feedback (such as IHDs ie energy orbs) 	<p>The referral to support agencies provides customers with the necessary assistance to address other issues they are facing, that may be impacting on their ability to pay their bills.</p> <p>An increased understanding of energy use within the home empowers consumers to address their energy consumption, reducing it where possible.</p> <p>Where energy literacy training and information is also provided, real-time feedback on energy consumption can help people make more informed decisions about their energy use.</p>	<p>How many customers were referred to support services? What support services did these include?</p> <p>How many customers were provided with energy audits over the phone? How many customers were provided with energy audits in home? How many customers received energy literacy training over the phone? How many customers received energy literacy training in home)?</p> <p>How many customers access smart meter data? How many customers are provided with an IHD or energy orb? How many customers given access to usage data and real-time feedback also received energy audits or energy literacy training?</p>

<ul style="list-style-type: none"> • Utility Relief Grants (URGs) 	<p>URGs provide consumers with a valuable opportunity to substantially reduce their debt and enable them to focus on the remaining amount owing, through other mechanisms. Retailers are obliged to make these available to customers.</p>	<p>How many customers accessed URGs?</p>
<ul style="list-style-type: none"> • Concessions 	<p>Concessions increase recipients' ability to pay for energy bills and should be provided to all eligible Victorians. Retailers are obliged to provide these to customers.</p>	<p>How many customers are accessing concessions? How many eligible customers who weren't accessing concessions had concessions applied when engaging in Active Assistance programs?</p>
<ul style="list-style-type: none"> • Other referral pathways 	<p>Additional assistance provided to customers may vary, all options should be explored.</p>	<p>What other referrals were made for customers?</p>

**Intensive assistance to be provided to the most vulnerable cohorts of consumers, to enable them to retain connection to the grid. Consumers may be those experiencing complex circumstances such as; victims of natural disasters, family violence, asylum seekers, poor quality housing, and major health issues, etc. Support in this program must be tailored on an individualised basis, with the goal of moving them back into B: *Active Assistance Program* when possible.

C: Intensive Assistance

Objective: To maintain connection for the most vulnerable Victorians and work toward sustainable energy usage.

The 'pointy end' of customer assistance with the goal of making consumption is affordable, and maintaining connection to supply. Applicable where bespoke repayment arrangements made under B: *Active Assistance* have not succeeded, or issues impacting the customer's ability to pay are overwhelming. Debt repayment should be postponed until payment for ongoing usage is sustainable.

The package of assistance should include those existing aspects of 'better' practice, by those retailers who have invested in hardship practices in recent years.

C: *Intensive Assistance Plan*, **must** include:

Retailer obligation	Consumer benefit of obligation	Compliance measure/KPI
Fully variable tariffs, based upon the <i>best available offer</i> .	Early opportunities to place consumers on more optimal tariffs given their circumstances will contribute to a reduced likelihood of	How many customers are offered a fully variable tariff, based on the best available offer?

	debt.	
Pay on time discounts for payment instalments made on time, and staged incentives to maintain on-time payments and prompt communication of payment difficulties. Debt waivers must be considered	Pay on time discounts incentivise consumers and provide retailers a further opportunity to engage consumers.	How many customers receive pay on time discounts and incentive payments? How many debts are waived, and how much.
Assistance needs to be more intensive, flexible and responsive	Programs need to be able to adapt as that customer's needs change. A retailer's intensive assistance plan needs to ensure that all opportunities have been provided to the consumer with the overall objective of keeping them on supply.	What additional measures have been delivered to assist vulnerable customers?
Additional efforts to reduce consumption must be delivered in this program where they have not first been provided under <i>B:Active Assistance Program</i> : <ul style="list-style-type: none"> o Education and energy efficiency audits and appliance replacement. o Energy literacy education programs tailored to meet the needs of the household. o Energy audit provided in the customer's home. o Where energy usage of a major appliance is excessive, appliance replacement must be considered by the retailer. o Appliance management options such as direct load control need to be explored with the consumer. o Real-time energy information feedback, such as an orb or an in home display, must be provided to consumers. 	Customers requiring a more targeted level when they are facing the difficulties that have led them to C: Intensive Assistance.	
Where consumption is affected by housing quality, then advice must be provided to the customer along with advice on how to remedy and referral to any appropriate assistance programs. If the customer is a tenant, the issues should be raised (with the customer's consent), with their landlord or social housing provider.	The consumer has done all in their power to manage consumption and pay their energy bills. External factors such as housing quality are outside of the customer's control and should be raised with	

	relevant parties, with the retailer advocating on their behalf.	
Referral to support agencies and legal services to be actively facilitated in severe cases of vulnerability.	Essential support is made available to these vulnerable consumers	
Intergovernmental response – triggers in place to initiate a social policy response for those consumers who need assistance outside of energy regulations.	Social policy response to broader affordability concerns.	

D: Payment Plan One

Objective: To help customers with whom agreement could not be reached to maintain engagement with retailers and begin paying off their debt.

Where *B: Active Assistance* has not commenced or succeeded due to agreement not being reached, retailers are required to offer the prescribed Payment Plan One where the unpaid bill is repaid in periodic payments (e.g. fortnightly, aligned to the customer's pay days) over two billing periods. **Customers cannot be disconnected until two codified payment plans have been offered to the customer and not completed.**

Retailer obligation	Consumer benefit of obligation	Compliance measure/KPI
The retailer is obliged to automatically place consumers onto a prescriptive payment plan (such as <i>Payment Plan One</i>) as provided in the Commission's framework.	Facilitation of consumer debt repayment commences.	How many customers are placed on PP1?
Periodic payments beginning at the next available opportunity, eg pay cycle should be used in preference to deferred payments, to ensure ongoing engagement with the consumer, and that payment patterns are maintained	Ongoing payment means that consumers remain engaged with retailers, rather than losing visibility with the retailer and incentive to remain engaged.	How many customers are making part payments?
Any offer of deferred payment needs to be accompanied by a conversation / warning about financial implications.	Customers, especially those, on fixed or low incomes, need to understand that deferred payment is unlikely to benefit them.	How many customers are on deferred payment arrangements?
Retailers must ask customers if meeting the regular payments is achievable and offer Payment Plan Two instead if appropriate. There's no point putting a customer on Payment Plan One if it is likely they will fail to make payments.	Failure to consider the customer's reported ability to pay increases the likelihood the customer will fail the payment arrangements determined by the retailer.	What measures are used to consider the customer's reported ability to pay?

Retailers should consider whether offering a fully variable tariff based on the best available offer will assist.	Early opportunities to place consumers on more optimal tariffs given their circumstances will contribute to a reduced likelihood of debt.	How many customers are offered a fully variable tariff, based on the best available offer?
Retailers must give pay on time discounts for payment instalments made on time.	Pay on time discounts incentivise consumers and provide retailers a further opportunity to engage consumers.	How many customers receive pay on time discounts?
Customers cannot transfer when they have a debt.	Consumers are more likely to benefit from the relationship they have developed with their retailer when they have accumulated a debt, provided that the retailer is providing all possible opportunities to reduce that debt.	How many customers have attempted to switch retailers while having a debt with the retailer?
Advice and assistance with managing energy usage should be given, including the availability of energy audits and energy literacy training (by phone and in-house) and an offer of giving real-time feedback on energy use via a device such as an IHD or energy orb.	An increased understanding of energy use within the home empowers consumers to address their energy consumption, reducing it where possible.	How many customers were provided with energy audits over the phone? How many customers were provided with energy audits in home? How many customers received energy literacy training over the phone? How many customers received energy literacy training in home?

Where possible questions⁶ should be asked by the retailer that would indicate if more tailored assistance is necessary, and *B: Active Assistance* should be offered. An indication of complex issues⁷, requires immediate referral to *C: Intensive Assistance*.

Failure to meet the obligations of *Payment Plan Two*, would result in immediate referral to *B: Active Assistance*. If the customer will not engage, the retailer should put the customer on *Payment Plan Two*.

E: Payment Plan Two

Objective: To help customers with whom agreement could not be reached to maintain engagement with retailers and continue paying off their debt.

⁶ ibid

⁷ ibid

Where *D: Payment Plan One* has not succeeded or is not appropriate, retailers must offer the prescribed Payment Plan Two where the unpaid bill is repaid in periodic payments (e.g. fortnightly, aligned to the customer's pay days) over five billing periods. **Customers cannot be disconnected until two codified payment plans have been offered to the customer and not completed.** If Payment Plan One has not been attempted due to capacity to pay, a second payment Plan two should be offered if the first one fails, with smaller periodic payments over a longer period.

Retailer obligation	Consumer benefit of obligation	Compliance measure/KPI
The retailer is obliged to automatically place consumers onto a prescriptive payment plan (such as <i>Payment Plan Two</i>) as provided in the Commission's framework.	Facilitation of consumer debt repayment commences.	How many customers are on PP2?
Periodic payments beginning at the next available opportunity, eg pay cycle should be used in preference to deferred payments, to ensure ongoing engagement with the consumer, and that payment patterns are maintained	Ongoing payment means that consumers remain engaged with retailers, rather than losing visibility with the retailer and incentive to remain engaged.	How many customers are making part payments?
Any offer of deferred payment needs to be accompanied by a conversation / warning about financial implications.	Customers, especially those, on fixed or low incomes, need to understand that deferred payment is unlikely to benefit them.	How many customers are on deferred payment arrangements?
Retailers must ask customers if meeting the regular payments is achievable and offer <i>Active or Intensive Assistance</i> if more appropriate. There's no point putting a customer on Payment Plan Two if it is likely they will fail to make payments.	Failure to consider the customer's reported ability to pay increases the likelihood the customer will fail the payment arrangements determined by the retailer.	What measures are used to consider the customer's reported ability to pay?
Retailers should consider whether offering a fully variable tariff, based on the best available offer, will assist.	Early opportunities to place consumers on more optimal tariffs given their circumstances will contribute to a reduced likelihood of debt.	How many customers are offered a fully variable tariff, based on the best available offer?
Retailers must give pay on time discounts for payment instalments made on time.	Pay on time discounts incentivise consumers and provide retailers a further opportunity to engage consumers.	How many customers receive pay on time discounts?

Customers cannot transfer when they have a debt.	Consumers are more likely to benefit from the relationship they have developed with their retailer when they have accumulated a debt, provided that the retailer is providing all possible opportunities to reduce that debt.	How many customers have attempted to switch retailers while having a debt with the retailer?
Advice and assistance with managing energy usage should be given, including the availability of energy audits and energy literacy training (by phone and in-house) and an offer of giving real-time feedback on energy use via a device such as an IHD or an energy orb.	An increased understanding of energy use within the home empowers consumers to address their energy consumption, reducing it where possible.	<p>How many customers were provided with energy audits over the phone?</p> <p>How many customers were provided with energy audits in home?</p> <p>How many customers received energy literacy training over the phone?</p> <p>How many customers received energy literacy training in home?</p>

Where possible questions⁸ should be asked by the retailer that would indicate if more tailored assistance is necessary. An indication of complex issues⁹, requires immediate referral to C: *Intensive Assistance*.

Failure to meet the obligations of *Payment Plan Two* would result in immediate referral to C: *Intensive Assistance* Plan. If the customer will not engage and this is the second failed codified payment plan, a disconnection warning may be issued.

F: Improved disconnection process

Disconnection should only be pursued where consumers have genuinely not engaged. As long as a customer is engaging with the retailer, disconnection should not occur. In addition to the changes we have proposed to the framework above, it is critical that the Commission revise the framework in relation to disconnections.

The impact of disconnections on consumers is significant and cannot be understated and the protections for consumers are crucial. CUAC's regulatory report¹⁰ published earlier this year highlighted the reduction in consumer protections (including the disconnection provisions) that arose with the replacement of the previous Energy Retail Code (v.10a) with the current Energy Retail Code (v.11). On the basis of CUAC's research findings,¹¹ we recommend that the ESC:

⁸ ibid

⁹ ibid

¹⁰ Consumer Utilities Advocacy Centre (May 2015), *CUAC Regulatory Review: A Critical Review of Key Consumer Protections in Victoria (vol. 1); A Comparative Analysis of Key Consumer Protections in Victoria (vol. 2)*

¹¹ Ibid 16-17 (vol.1); 15-28 (vol.2)

1. Review the disconnection provisions in the Energy Retail Code (v.11) to ensure that they are relevant to current market conditions.
2. Review and tighten the diminished disconnection provisions under the Energy Retail Code (v. 11). In particular to:
 - a. Ensure that all the disconnection provisions in the Energy Retail Code (v.11), which are key consumer protections, apply to market retail contracts (currently this is unclear because of inconsistent drafting); and
 - b. Amend the timeframes and notification requirements between the issue of a bill and actual disconnection for all the disconnection scenarios outlined in the Energy Retail Code (v.11), so that they are not lower than the previous Energy Retail Code (v.10a).
3. For dual fuels, to include in the Energy Retail Code (v.11), the previous Energy Retail Code (v.10a) requirements on dual fuel, including:
 - a. A statement with the disconnection warning notice advising customers when their gas and electricity supply will be disconnected; and
 - b. A further disconnection warning notice before the customer's electricity supply is disconnected.
4. For shortened collection cycles, to include in the Energy Retail Code (v.11), the previous Energy Retail Code (v.10a) provisions on shortened collection cycles, with a view to maintaining the same:
 - a. Notification requirements before a customer can be placed on a shortened collection cycle; and
 - b. Timeframes between the issue of a bill and actual disconnection (this should apply to both standard retail contracts and market retail contracts)
5. Amend the Harmonised Code (v.11) to ensure that the connection and reconnection timeframes apply to both standard retail contracts and market retail contracts.

We recommend strengthening the disconnection process and the 'Operating Procedure Compensation on Wrongful Disconnection' to include a requirement for face-to-face contact between a consumer and retailer/distribution business before disconnection. The failure of the full context of a consumer's circumstances being considered prior to disconnection is impacting upon the most vulnerable members of our community, where the inability to access energy can have dire consequences. Further, the introduction of the remote disconnection function of smart meters speeds up the disconnection process as the distribution business no longer needs to physically visit the property.

In addition, we support Consumer Action Law Centre's recommendation in their report *Heat or Eat: Households should not be forced to decide whether they heat or eat*, to have the decision to disconnect someone taken out of the hands of retailers, and made instead by an independent arbiter who can provide the necessary oversight for such a significant action.¹² Our recommendations will complement the amendments made in the Consumer Protection Bill to increase the wrongful disconnection payment to \$500 and the introduction of a \$5,000 penalty, and hopefully significantly reduce the disconnection rate.

According to the draft report (p110), reconnections are through 'EWOV or another registered third party.' It is unclear if consumers or financial counsellors/other support services acting on their behalf

¹² Consumer Action Law Centre (Aug 2015), *Heat or Heat: Households should not be Forced to Decide whether they Heat or Eat*, p47.

are able to facilitate their own reconnection. We ask the Commission to clarify this in their final report. In addition, it is important that consumers understand what the various pathways to reconnection are. Energy retailers should communicate this information to consumers especially at the time of disconnection to facilitate a smoother and quicker reconnection.

Compiled by a coalition of Victorian consumer groups and community organisations

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